REMARKS

These comments are responsive to the Office Action dated September 4, 2008, which rejected the pending claims under 35 U.S.C. § 103(a) as being unpatentable over Conley (US2002/0099904) in view of Chien et al. (US patent number 6,742,078) and Brinkmann et al. (US2006/0242212). It is respectfully submitted that these rejections are in error and should be withdrawn.

For example, the final element of independent claim 44 is:

> storing a record of the updating of the first linking in the non-volatile memory, wherein the said record only includes deviations from the rule.

The Office Acknowledges that "the combination of Conley and Chien differs from the claimed invention in not specifically teaching the record only including deviations from the rule" and introduces the newly cited reference of Brinkmann for this limitation. However, it is respectfully submitted that such a limitation is also neither taught nor suggested in Brinkmann.

More specifically, the Office Action cites Brinkmann at paragraph [0079]. The Office Action is correct in so far as that this particular paragraph uses the words "links: and "deviations", but these are being used in respect to a very different situation application and with a different usage and meaning. The relevant part of Brinkmann's paragraph [0079] is:

> ..., the share capacity can also be used in order to perform a better balancing of the request load in order, for example, to eliminate bottlenecks in the links to storage systems or in the storage systems themselves. Furthermore, they can be used in order compensate for deviations from the desired distribution (that due to use of pseudo-random hashing functions cannot be ruled out). ...

It is believed clear (or relatively clear, given the way it was translated into English) that the "links" and "deviations" described there are quite different in meaning and in their relationship to each other from these words as found in claim 44. This paragraph is related to the "Choice of the Capacities" in the system of Brinkmann and is related to "balancing of the request load" and to establishing the topology of the system with which Brinkmann is concerned. The "deviations" of Brinkmann are "deviations from the desired distribution". They are not deviations related to how the earlier mentioned "links" are formed. And the "links" mentioned are connections to the "storage systems" shown with reference number 4 in Figures 1-3. They are not a "linking" of physical block structures into the sort of composite virtual "metablock"-type structure as found in the claims.

In contrast, the "linking" in claim 44 is "of a plurality of units of erase" into a composite structure, and not, as in Brinkmann, the sort of connection between devices to establish a communication channel. Further, the "deviations" of claim 44 are related to a "rule" according to which the "linkings" of the claim are formed, whereas the "deviations" of Brinkmann are deviations "from the desired distribution" and not, as in the claim, related to its "links".

Therefore, it is respectfully submitted that Brinkmann also does not disclose what the Office Action admits is lacking in the Conley and Chien references and that, consequently, the Office Action has not made the required *prima facie* case for the rejection. Further, as is believed clear from the preceding discussion, Brinkmann is concerned with a very different subject matter than the present application.

More specifically, the problem with which Brinkmann is dealing is the arrangement and structure of a data storage network, intranet, internet, or some combination of these for distributing and receiving data. As discussed there and shown in Figures 1-3, this is accomplished introducing "SAN [storage area network] appliances 5" into the networks connected (or linked) according to topologies such as shown in Figures 2 and 3. This is a distinct problem from what is found in the claimed subject matter for the present application. (Actually, Brinkmann in general and its paragraph [0079] in particular appear to have cited just on the basis of the words "links" and "deviations" occurring in the same paragraph; but it is the use and meaning of theses words, which are quite different from that of the claim, and not just their occurrence that needs to be considered.)

As such, it is not believed obvious to combine Brinkmann with the Conley and Chien as done in the Office Action, even if it had disclosed the material claimed for it by the Office Action. The Office Action states its motivation as "Brinkmann teaches to eliminate bottlenecks in links to storage system by having the record include only deviations from the rule". This statement is believed to be incorrect for several reasons. First, the "deviations" of Brinkmann are "deviation from the rule" by which the linking are established. Also, the "links" of Brinkmann are the connections to its "data storage units" (4, Figures 1-3), not the links of the claim. Further, in Brinkmann, such "bottlenecks" would be a concern, but this is related to what Brinkmann's "links" are: such a concept of "bottlenecks" and their removal is not relevant to the "linkings" of the claims and, as such, this is not a motivation to combine.

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Therefore, for at least these reasons, it is respectfully submitted that a rejection of claim 44 under 35 U.S.C. § 103(a) as being unpatentable over Conley (US2002/0099904) in view of Chien et al. (US patent number 6,742,078) and Brinkmann et al. (US2006/0242212) is note well founded and should be withdrawn. Claims 45-50 are all dependent claims and, consequently, allowable as well, with a number of these including further limitation that make them further allowable, although these will not be discussed further at this time.

Consequently, it is now believed that the present application is now in form for allowance, an early indication of which is earnestly solicited.

Respectfully submitted,

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